

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EULOGIO PENA,

Petitioner,

-v-

No. 05 Civ. 3109 (LTS)(FM)

ISRAEL RIVERA, Superintendent, Coxsackie  
Correctional Facility,

Defendants.

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ELECTRONICALLY FILED  
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**ORDER ADOPTING REPORT AND RECOMMENDATION**

On July 31, 2006, Magistrate Judge Frank Maas issued a Report and Recommendation ("Report") recommending that Petitioner Eulogio Pena's writ of habeas corpus, pursuant to 28 U.S.C. § 2254, be denied. Petitioner filed objections in a document dated August 11, 2006.

In reviewing the Report, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C.A. § 636(b)(1)(C) (West 2006). The Court is required to make a de novo determination as to the aspects of the Report to which objections are made. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997). However, when a party makes only conclusory or general objections, or simply reiterates his original arguments, the Court reviews the Report only for clear error. United States ex rel. Casa Redimix Concrete Corp. v. Luvín Constr. Corp. 00-7552, 2002 WL 31886040, at \*4-5 (S.D.N.Y. Dec 27, 2002); Camardo v. General Motors Hourly-Rate Employees Pension Plan, 806 F. Supp. 380, 382 (W.D.N.Y. 1992); Chabrier v. Leonardo, No. 90-0173, 1991 WL 44838, at \*1 (S.D.N.Y. Mar. 26, 1991); Schoolfield v. Dep't of Corr., No. 91-1691, 1994 WL 119740, at \*2 (S.D.N.Y. Apr. 6, 1994). Objections to a Report and Recommendation "are to be specific and are to address only those portions of the proposed findings to which the party objects." Camardo, 806 F. Supp. at 381-382.


The Court considered carefully all the parties' submissions in this case. Petitioner's objections in this matter are an effort to reiterate his earlier arguments and are presented in conclusory fashion, simply reflecting his disagreement with Judge Maas' conclusions. Because Petitioner raises only general or conclusory objections, the Court reviews the Report for clear error.

The Court has reviewed Judge Maas' thorough and well-reasoned Report and finds no such error. The Court adopts the Report in its entirety for the reasons stated therein. Accordingly, Petitioner's petition for a writ of habeas corpus is denied.

The Court adopts Judge Maas' conclusion that because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability should not be issued. See 28 U.S.C. § 2253; Middleton v. Attorneys General of States of N.Y. & Pennsylvania, 396 F.3d 207, 209 (2d Cir. 2005) (per curiam). The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444 (1962).

SO ORDERED.

Dated: New York, New York  
August 31, 2006

  
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LAURA TAYLOR SWAIN  
United States District Judge